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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,894	01/17/2002	Ward Mullins	0036-023	2566

45270 7590 01/18/2007	EXAMINER
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ART UNIT	PAPER NUMBER
2161	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 November 2005</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>21-27</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>21-27</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 11/3/2005 has been entered.

2.   Applicant's amendments to the claims 1 - 20 are acknowledged. Consequently, claims 1

– 20 have been cancelled. Claims 21 – 27 have been added, and currently pending for further

execution.

Double Patenting

3.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is

appropriate where the conflicting claims are not identical, but at least one examined application

claim is not patentably distinct from the reference claim(s) because the examined application

claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g.,

In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29

USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re

Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ

619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may

be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

ground provided the conflicting application or patent either is shown to be commonly owned

with this application, or claims an invention made as a result of activities undertaken within the

scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR

3.73(b).

4.   Claims 21 – 27 are provisionally rejected on the ground of nonstatutory double patenting

over claims 1 - 17 of copending Application No. 10/382,302; claims 1 - 15 of copending

Application No. 10/158,672; claim1 - 14 of copending Application No. 10/386,011. This is a

provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending application

since the referenced copending application and the instant application are claiming common

subject matter, as follows: transparent persistence data object and complex data object graph

model.

Furthermore, there is no apparent reason why applicant would be prevented from

presenting claims corresponding to those of the instant application in the other copending

application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP

§ 804.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 21 – 23, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hapner et al (U.S. 5,848,419) in view of Bitar et al (U.S. 6,405,198 B1).

◆ As per claims 21, 27

Hapner discloses a local or distributed computer system comprising:

- " A user interface" See Fig. 6, element 40, col. 11, lines 32 – 59 of Hapner. The I/O

   component is an user interface that allows the user to enter or retrieve information from

   the computer.

- " A working memory storage area and at least one device for permanently storing

   information" See Fig. 6, col. 11, lines 32 – 59 of Hapner.

- " A computer software program" corresponds to the programming instruction. See Fig. 6,

   col. 11, lines 32 – 59 of Hapner.

- Wherein a portion of said memory of said system is loaded with at least one portion of a

   computer software program containing logic for creating or maintaining transparent

   persistence (see the abstract, col. 7, lines 12 – 27 of Hapner) of a of a data object (See

   col. 7, lines 12 – 27 of Hapner), an object graph model or a portion of an object graph

   model, wherein said transparent persistence is persistence of a complex data object graph

   model of data objects and data object relationships.

The data object(s) defined in Hapner contains pointer and the relationship to other object as seen in Fig. 3, col. 7, lines 29 – 55 of Hapner. As defined in the disclosure, a "complex data object" refers to a object that has at least one or more relationships with itself or at least one or more relationships with one or more other data object(s) (see page 5 of the disclosure). Therefore, the object in Hapner is a "complex data object" as claimed in the instant application.

Hapner does not clearly name the "object" in the invention is a "complex data object graph model". However, Hapner teaches that the model is existed between object(s) (col. 6, lines 38 – 59 of Hapner). Therefore, Hapner does implicitly teach about the "complex data object graph model" in this paragraph.

In addition, Bitar, teaches a method for creating, maintaining, accessing and navigating complex data objects (See Abstract, col. 2, lines 38 – 52).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Bitar into the invention of Hapner (if not inherited in Hapner) because the combination would improve the representing the structure of objects, increasing the speed and reducing computer memory resources.

♦ As per claims 22, the combination of Hapner and Bitar disclose:

   -   " That does not require any modifications to an object model or the inclusion of any persistence byte code in the object model in order to provide persistence for all or a portion of the CDOG model" See col. 6, lines 48 – 67 of Hapner.

♦ As per claim 23, the combination of Hapner and Bitar disclose:

   -   " That provides persistence for a complex data object model on a distributed network environment" See col. 6, lines 48 – 67 of Hapner.

7.   Claim 24 - 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hapner et al

(U.S. 5,848,419) in view of Bitar et al (U.S. 6,405,198 B1) as applied to claims 21 -23 above,

and further in view of Apte et al (U.S. 6,269,373 B1).

◆ As per claims 24 - 26

The combination of Hapner and Bitar disclose all limitations as in claim 21 but does not

includes:

-    " A generic ejb stateful session bean as a loaded software module"

Apte, on the other hand, disclose a method for persisting bean as container-managed files

including the suggestion for enabling the transparent persistence of an object reference for a

JavaBean as a container-managed filed within a CORBA server (see col. 2, lines 38 – 41 of

Apte).

It would have been obvious to one with ordinary skill in the art at the time the invention was

made to combine the teaching of Apte into the invention of Hapner/Bitar because the

combination would improve distributed data processing system such that a server application can

references to other server directly (col. 2, lines 1 – 5 of Apte).

Response to Arguments

8.   Applicant's arguments with respect to claims 21 - 27 have been considered but are moot

in view of the new ground(s) of rejection.

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

- Mark Halstead (U.S. 6,096,095) discloses a persistent representations of complex data structures.

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272 - 4146. The fax phone number for the organization where this application or proceeding is assigned is 571 – 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen, Cam-Linh

Art Unit 2161

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